

ORIGINAL

IN THE UNITED STATES DISTRICT COURT

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

FOR THE SOUTHERN DISTRICT OF GEORGIA

FEB 28 PM 3:04

AUGUSTA DIVISION

CLERK *L. F. Johnson*
SO. DIST. OF GA.

RODRIGUEZ DEWAYNE STEWART,)

Movant,)

v.)

CV 105-84

(CR 103-87)

UNITED STATES OF AMERICA,)

Respondent.)

ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which objections have been filed. Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. The Title 28, United States Code, Section 2255 motion is **DENIED**, and this civil action is **CLOSED**.¹

SO ORDERED this 28th day of February, 2006, at Augusta, Georgia.

Rudolph H. Benge Jr.
UNITED STATES DISTRICT JUDGE

¹ In his objections to the Magistrate Judge's Report and Recommendation, movant asserts, for the first time, that he asked his counsel to file a notice of appeal after his sentencing, but his counsel failed to do so. Because movant did not raise this issue in his Section 2255 motion, it is not raised properly in his objections to the Report and Recommendation. Furthermore, movant indicated in his Section 2255 motion that he did not file an appeal because his plea agreement contained an appeal waiver, not because his attorney failed to comply with his request. Doc. 1 at 5.